

Reg. § 1.9741(3)-1 Agricultural Supplies Exemption

A. The agricultural supplies exemption is generally product-based, and the supplies identified in the first clause of the exemption statute – agriculture feeds, seed, plants, baler twine, silage bags, agricultural wrap, sheets of plastic for bunker covers, liming materials, breeding and other livestock, semen breeding fees, baby chicks, turkey poults, agriculture chemicals other than pesticides, veterinary supplies, and bedding – are exempt if they are of the type of product that is typically used in agriculture. For these items, the seller is not required to obtain an exemption certificate from the purchaser. *See* Reg. §§ 1.9745, 1.9741(25)-7 (discussing exemption certificates).

Agriculture means the science or act of producing agronomic and horticultural crops, farm products, and raising livestock. Livestock includes cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry (including pheasant, chukar partridge, and coturnix quail), camelids and ratites, rabbits when raised for meat, cultured fish propagated by commercial fish farms and bees.

B. Where the enumerated exempt items are not of the type ordinarily used in agriculture, they are exempt only if the intended use is agricultural. For example, grass seed is in general taxable because the planting of lawns is ordinarily not an agricultural use. If the seed is used by a farmer who grows sod for resale, the seller must collect tax on the seed unless the purchaser provides an exemption certificate.

C. The exemption for fertilizers and pesticides is use-based because these products are exempt only when used and consumed directly in the production for sale of tangible personal property on farms. The seller must collect tax unless the purchaser provides an exemption certificate.

D. Agricultural supplies other than fertilizers and pesticides as discussed in subsection (C), above, and the specific products listed in subsection (A), above, are taxable unless otherwise exempted by law, even if used in agriculture. Machinery and equipment are not exempt under this section but may be exempt under the provisions of 32 V.S.A. § 9741(25) and Reg. § 1.9741(25).

Reg. § 1.9741(3)-2 Examples

The following list is for illustrative purposes only:

1. Feed for feeding pets or other animals not considered livestock is not exempt because it is not agricultural feed. Pet food sold by a veterinarian is not considered a veterinary supply and is taxable.
2. Seed designed and marketed for feeding wild birds is not an agricultural seed (or feed) and is taxable.
3. The sale of agricultural chemicals designed and marketed for use on lawns or for any other non-agricultural use is taxable.
4. The sale of flowering plants or shrubs for use in flower gardens and landscaping is taxable. Fruit trees and vegetable plants are considered agricultural supplies and are exempt, however, even when not purchased for commercial use.
5. The sale of disposable loose materials, including straw, shavings, sawdust, leaves, and shredded paper for use where livestock may lie, and the sale of mats made of rubber or other material specifically designed and sold for bedding farm animals, is exempt from the tax as the sale of “bedding.” The sale of such materials when packaged and marketed as bedding for pets or other animals not considered livestock is taxable. **Potting soil, rocks, sand, gravel, compost, landscape mulch or similar materials for use in plant beds are not “bedding” within the meaning of the statute and are not exempt from the tax.**